

## **ORDER OF THE STATE PERSONNEL BOARD**

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KERBIN SHARP,

Complainant,

vs.

DEPARTMENT OF TRANSPORTATION,

Respondent.

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The State Personnel Board (the "Board") met in public session on Tuesday, February 19, 2002. During this public session, the Board considered the record on appeal, including but not limited to:

1. Order Granting Motion to Dismiss and Initial Decision of the Administrative Law Judge
2. Opening Brief
3. Complainant's Answer Brief
4. Reply Brief

After a lengthy discussion of drug testing, grounds for termination, and the need for a complete record, the Board voted to reverse the Order Granting Motion to Dismiss and Initial Decision of the Administrative Law Judge ("ALJ"). The matter is to be remanded to a new ALJ, due to the departure of the original ALJ from state service, for further proceedings in order to provide Complainant with an opportunity to put on his case and to complete the record regarding the issue of the agency violating its own procedural directives with respect to its obligation to provide rehabilitation.

This order represents the affirmative vote of the following Board members: Ms. Salkind, Ms. Siderius, and Ms. Daly. Mr. Zakhem voted in opposition to the motion. Ms. Lottner was absent.

Dated this \_\_\_\_\_ day of  
February, 2002.

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Melanie Daly  
Board Chair  
State Personnel Board  
1120 Lincoln Street, Suite 1420  
Denver, CO 80203

CERTIFICATE OF MAILING

This is to certify that on the \_\_\_\_\_ day of February, 2002, I placed true copies of the foregoing **ORDER OF THE STATE PERSONNEL BOARD**, in the United States mail, postage prepaid, addressed as follows:

Michael A. Hug, Esq.  
9101 East Kenyon Avenue, Suite 2000  
Denver, CO 80237

And in the interagency mail, addressed as follows:

Carol M. Caesar  
First Assistant Attorney General  
Employment Section  
1525 Sherman Street, 5<sup>th</sup> Floor  
Denver, CO 80203